Phoenix Energy's response to the Utility Regulator's consultation on the publication of a Compliance And Enforcement Annual Report

Phoenix Energy (**Phoenix**) welcomes the opportunity to respond to the Utility Regulator's (**UR**) consultation on the publication of a Compliance And Enforcement Annual Report (**C&E Report**).

In general, Phoenix supports publication of information that improves transparency and understanding of regulatory compliance activities. Our specific responses to the consultation questions are provided below.

COMPLIANCE MONITORING AND REPORTING

Question 1 - Do you agree with our proposed compliance data providing detail of both our routine and annual compliance monitoring?

Please provide clear reasoning and examples where possible evidencing the impact of your views.

Paragraph 2.20 of the consultation states that routine monitoring is the central focus of UR's compliance and reporting framework. However it is not clear to Phoenix why publication of routine compliance monitoring data in the C&E Report is required if this same data will also be included within the annual Statement of Licence Compliance (**SoLC**) findings. Publication of both sets of data may create confusion and lead to readers drawing inaccurate conclusions regarding the scale or significance of potential compliance issues.

Phoenix is also mindful that potential compliance issues arise in a variety of circumstances and without appropriate context risk being automatically interpreted as evidence of consumer detriment or a substantive compliance or enforcement concern. For example, reporting the number of potential compliance issues will not tell readers:

- whether consumers were affected;
- whether it was a serious issue or an administrative issue;
- whether the issue arose because of a licence drafting anomaly;
- whether the issue was closed by UR with no action to be taken;
- whether the issue was referred for investigation by UR's Enforcement Committee.

Phoenix questions whether publication of the number of potential compliance issues, absent any determination regarding the existence of a breach, provides meaningful information to consumers. Consideration should be given to whether the C&E Report should focus primarily on confirmed compliance outcomes, investigations and enforcement activity rather than matters that may ultimately be found not to represent a compliance failing.

Question 2 - To what extent would it be necessary or desirable to have the published data anonymised / pseudonymised?

Stakeholders should outline and explain (where applicable) their rationale for the views expressed and include examples where appropriate.

The consultation refers to enhancing transparency and accountability. If the objective of the C&E Report is to demonstrate UR's compliance activity, publication of anonymised / pseudonymised data may be appropriate. However, if the objective is to hold licensees publicly accountable for compliance performance, it is less clear how anonymised / pseudonymised reporting would achieve this.

Question 3 - To what extent do you agree with our proposal to include relevant detail by licence type to ensure the data remains of value to the reader.

Stakeholders should outline and explain (where applicable) their rationale for the views expressed and include examples where appropriate.

The consultation does not clearly explain what is meant by licence type and therefore what level of aggregation is proposed for the C&E Report:

- In some sectors the number of licensees is relatively small. In such cases, anonymised / pseudonymised reporting may effectively identify individual licensees.
- In other sectors consumers have limited ability to switch provider or choose between network operators. The benefits to a consumer of publishing such data are therefore unclear.

This goes back to the point raised in response to question 2 i.e. it is not entirely clear whether the report is intended to demonstrate UR's compliance activity or to hold licensees publicly accountable.

INVESTIGATIONS AND ENFORCEMENT

Question 4 - Should information about cases closed at the Initial Enquiry Stage through and alternative resolution also be published in our Compliance and Enforcement Annual Report?

Please provide the rationale for your position including how it represents the consumer interest.

Phoenix is aware that information on alternative resolutions is already published by UR in its Annual Report and Accounts. We therefore have no objection in principle to the inclusion of this same information in the C&E Report.

However, to ensure that the Investigations and Enforcement section is valuable to the reader, UR may also want to consider publishing the number of cases closed following the initial enquiry stage. This would seemingly align with the approach adopted for the reporting of SoLC findings in the compliance monitoring and reporting section.

OVER-ARCHING QUESTIONS

Question 5 - Do you have any additional comments on the proposed annual report in relation to how the publication of the proposed information is in the interests of consumers?

If you have any additional comments, please provide clear rationale.

Phoenix supports publication of information that improves transparency and understanding of regulatory compliance activities. However, transparency is best achieved through publication of information that is meaningful and capable of being fairly interpreted by consumers and stakeholders. As it stands UR's proposed approach for the compliance monitoring and reporting section risks readers incorrectly inferring that all reported potential compliance issues represent equivalent levels of consumer detriment or regulatory concern. If reporting of potential compliance issues is retained, sufficient contextual information should be provided to enable consumers and stakeholders to understand the nature, significance and outcome of the issues reported.

Question 6 - Do you agree that where this document has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for consumers?

No comment.